



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

June 25, 1959

Honorable J. E. Lyles, Commissioner
Bureau of Labor Statistics
Capitol Station
Austin, Texas

Opinion No. WW-653

Re: Whether the National Fashions Association, in supplying models to salesmen, in connection with its operation of the Merchandise Mart in Dallas, Texas, would be required to obtain an employment agency license under Article 5221a-6, Vernon's Civil Statutes, the Texas Private Employment Agency Law.

Dear Mr. Lyles:

In the request from your office for our opinion, the following facts were presented:

"National Fashions Association, operating the Merchandise Mart in Dallas, conducts the market season in conjunction with the various ladies' clothing companies over the country. The salesmen for the clothing manufacturers pay a membership fee to the National Fashions Association. The Secretary of National Fashions maintains a list of all fashion model personnel in Dallas or environs. When a market season is to be conducted the Merchandise Mart runs an ad in the local newspaper requesting all such models to report to the Merchandise Mart for employment. The various salesmen are assigned rooms in the Merchandise Mart to display their wares. Under the direction of National Fashions Association a table is set up where the models report

for employment and where they are then dispatched to the salesmen in accordance with their requests. The girls are paid for this service directly by the salesmen and not by National Fashions Association."

You then asked the following question:

"Under the applicable Texas law would National Fashions Association be required to apply for and obtain an employment agency license in order to carry on such operation?"

House Bill 387, Acts 51st Legislature, Regular Session, 1949, Chapter 245, page 453, codified as Article 5221a-6, Vernon's Civil Statutes, and known as the "Texas Private Employment Agency Law," governs the operation of private employment agents in Texas. The act sets out the definitions of such agents, the exceptions to the Act, and the licensing requirements.

Section 1(a) of Article 5221a-6 defines the term "person" as follows:

"(a). The term 'person' means an individual partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, or receiver."

Section 1(e) defines private employment agents or agencies as follows:

"(e). 'Private Employment Agent' means any person in this State who for a fee or without a fee offers or attempts to procure employment for employees or procures or attempts to procure employees for employers except employees as common laborers or agricultural workers."

Under the fact situation as presented, National Fashions Association is offering or attempting to procure employment for employees and is procuring or attempting to procure employees for employers. The Association's method of operation comes squarely within the meaning of "Private Employment Agent" as defined by the Act. Such an operation is, in our opinion, a private employment agency as defined by the Act. We find no exception under which National Fashions Association would be exempt from the requirement that private employment agents in Texas must obtain a license.

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Therefore, it is our opinion that under Article 5221a-6, V. C. S., National Fashions Association is operating a private employment agency and would be required to apply for and obtain an employment agency license in order to continue the present operation.

S U M M A R Y

National Fashions Association, in supplying models to salesmen in connection with its operation of the Merchandise Mart in Dallas, Texas, would be required to obtain an employment agency license under Article 5221a-6, V. C. S., the Texas Private Employment Agency Law.

Very truly yours,

WILL WILSON
Attorney General

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MN:fb

APPROVED:

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